S T A T E O F M I C H I G A N

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

| | | |
|---|---|---|
| In the matter of the application of<br>**Michigan Gas Utilities Corporation**<br>for approval to implement a gas cost<br>recovery plan and factors for the 12-month<br>period ending March 31, 2012 | )<br>)<br>)<br>)<br>) | Case No. U-16481<br>Consolidated Case |
| In the matter of the application of<br>**Michigan Gas Utilities Corporation**<br>for approval to implement a Reservation<br>Charge applicable to Gas Choice Customers | )<br>)<br>)<br>) | Case No. U-16513<br>Consolidated Case |

**NOTICE OF PROPOSAL FOR DECISION**

The attached Proposal for Decision is being issued and served on all parties of record in the above matter on November 22, 2011.

Exceptions, if any, must be filed with the Michigan Public Service Commission, P.O. Box 30221, 6545 Mercantile Way, Lansing, Michigan 48909, and served on all other parties of record on or before December 14, 2011, or within such further period as may be authorized for filing exceptions. If exceptions are filed, replies thereto may be filed on or before December 28, 2011. **The Commission has selected this case for participation in its Paperless Electronic Filings Program. No paper documents will be required to be filed in this case.**

At the expiration of the period for filing exceptions, an Order of the Commission will be issued in conformity with the attached Proposal for Decision and will become effective unless exceptions are filed seasonably or unless the Proposal for Decision is reviewed by action of the Commission. To be seasonably filed, exceptions must reach the Commission on or before the date they are due.

MICHIGAN ADMINISTRATIVE HEARING SYSTEM
For the Michigan Public Service Commission

Dennis Mack

Digitally signed by Dennis Mack
DN: cn=Dennis Mack, c=US, email=mackd2@michigan.gov
Date: 2011.11.22 14:59:42 -05'00'

Dennis W. Mack
Administrative Law Judge

November 22, 2011
Lansing, Michigan

STATE OF MICHIGAN

MICHIGAN ADMINISTRATIVE HEARING SYSTEM

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

| | | |
|---|---|---|
| In the matter of the application of | ) | |
| **Michigan Gas Utilities Corporation** | ) | Case No. U-16481 |
| for approval to implement a gas cost | ) | Consolidated Case |
| recovery plan and factors for the 12-month | ) | |
| period ending March 31, 2012 | ) | |

| | | |
|---|---|---|
| In the matter of the application of | ) | |
| **Michigan Gas Utilities Corporation** | ) | Case No. U-16513 |
| for approval to implement a Reservation | ) | Consolidated Case |
| Charge applicable to Gas Choice Customers | ) | |

## PROPOSAL FOR DECISION

## I.

## PROCEDURAL HISTORY

On December 29, 2010, Michigan Gas Utilities Corporation (Company), filed an Application with the Michigan Public Service Commission (Commission) seeking approval of a Gas Cost Recovery (GCR) plan and factors for the 12-month period between April 2011 and March 2012, and a five-year forecast. A case on the Application was opened under Case No. U-16481. Also on December 29, 2010, the Company filed another Application seeking approval to implement a Reservation Surcharge applicable to both GCR Sales and Gas Choice Customers (GCC). A case on that Application was opened under Case No. U-16513.

On February 15, 2011, a pre-hearing conference on Case No. U-16481 was held, during which counsel for the Company and Commission Staff appeared. Petitions to intervene filed by the Attorney General and the Residential Ratepayer Consortium (RRC) were granted. 1 TR 5-6. The Michigan Gas Customer Choice Association (MGCCA) withdrew its petition to intervene with the understanding it would be re-filed in Case No. U-16513. 1 TR 7. On March 16, 2011, a pre-hearing conference was held in Case No. U-16513. The Company and Staff appeared, and petitions to intervene filed by the Attorney General and the MGCCA were granted. [1] 2 TR 17, 26. A petition to intervene filed by the Retail Energy Supply Association was denied. 2 TR 35. Finally, the Company's Motion for Limited Consolidation of Case U-16481 and Case No. U-16513 was granted. 2 TR 38.

The evidentiary hearing was conducted on July 18 and 19, 2011. During the hearing, the Company entered the direct and rebuttal testimony of its employees: David J. Tyler, Manager of Regulatory Services; Kent E. Huzzey, Manager – Gas Supply; Brian M. Marozas, Manager of the Planning, Modeling and Contract Administration Department; John P. Wirick, Coordinator, Gas Supply Modeling; and Sarah R. Mead, Senior Sales and Revenue Forecaster in the Budgets and Forecasts Department. In addition, the Company entered 23 exhibits identified as Exhibits A-1 through A-23.

The RRC offered the testimony of Frank J. Hollewa, a principal of Energy Planning and Engineering Consultants, and entered 6 exhibits identified as Exhibits RRC-1 through RRC-6.

[1] In its Petition to Intervene the MGCCA indicated its membership consisted of Lakeshore Energy Services, LLC and Volunteer Energy Services. Dckt. #0007. Prior to the hearing, a Motion to Withdraw filed by Volunteer Energy Services was granted. 4 TR 82.

The Attorney General offered the testimony of Sebastian Coppola, President of Corporate Analytics, Inc., and entered 11 exhibits identified as Exhibits AG-1 through AG-11.

The MGCCA offered the testimony of Dawn M. Levitt, Manager of Regulatory Affairs and Corporate Relations for Lakeshore Energy Services, and entered 11 exhibits identified as MGC-1 through MGC-11.

Staff offered the testimony of William M. Stosik, Manager of Financial Analysis and Customer Choice Section in the Regulated Energy Division of the MPSC, and entered 8 exhibits identified as Exhibits S-1 through S-8.

Subsequent to the close of the record the parties filed briefs and reply briefs consistent with the schedule agreed to during the March 16, 2011 pre-hearing conference. 2 TR 39.

## II.

## CASE NO. U-16481: GAS COST RECOVERY PLAN AND FACTORS

In 1983, the Company's predecessor-in-interest had its Gas Cost Recovery (GCR) Clause approved by the Commission in Case No. U-7483. MCL 460.6h(2). In order to implement the GCR Clause, the Company must file "a complete gas cost recovery plan describing the expected sources and volumes of its gas supply and changes in the cost of gas anticipated over a future 12-month period specified by the commission and requesting for each of those 12 months a specific gas cost recovery factor." MCL 460.6h(3). Concomitantly, a GCR Plan must:

> [D]escribe all major contracts and gas supply arrangements entered into by the utility for obtaining gas during the specified 12-month period. The

> description of the major contracts and arrangements shall include the price of the gas, the duration of the contract or arrangement, and an explanation or description of any other term or provision as required by the commission. The plan shall also include the gas utility's evaluation of the reasonableness and prudence of its decisions to obtain gas in the manner described in the plan, in light of the major alternative gas supplies available to the utility, and an explanation of the legal and regulatory actions taken by the utility to minimize the cost of gas purchased by the utility.
> MCL 460.6h(3).

In addition to a Plan, the implementation of a GCR Clause is dependent on the submission of:

> [A] 5-year forecast of the gas requirements of its customers, its anticipated sources of supply, and projections of gas costs. The forecast shall include a description of all relevant major contracts and gas supply arrangements entered into or contemplated between the gas utility and its suppliers, a description of all major gas supply arrangements which the gas utility knows have been, or expects will be, entered into between the gas utility's principal pipeline suppliers and their major sources of gas, and such other information as the commission may require.
> MCL 460.6h(4).

Upon receipt of a GCR Plan, the Commission is required to conduct a contested case to evaluate "the reasonableness and prudence of the plan, and establishing the gas cost recovery factors to implement a gas cost recovery clause incorporated in the rates or rate schedule of the gas utility." MCL 460.6h(5). In its final order, the Commission:

> [S]hall evaluate the reasonableness and prudence of the decisions underlying the gas cost recovery plan…, and shall approve, disapprove, or amend the gas cost recovery plan accordingly. In evaluating the decisions underlying the gas cost recovery plan, the commission shall consider the volume, cost, and reliability of the major alternative gas supplies available to the utility; the cost of alternative fuels available to some or all of the utility's customers; the availability of gas in storage; the ability of the utility to reduce or to eliminate any sales to out-of-state customers; whether the utility has taken all appropriate legal and regulatory actions to minimize the cost of purchased gas; and other relevant factors. The commission shall approve, reject, or amend the 12 monthly gas cost recovery factors requested by the utility in its gas cost

> recovery plan. The factors ordered shall be described in fixed dollar amounts per unit of gas, but may include specific amounts contingent on future events, including proceedings of the federal energy regulatory commission or its successor agency.
> MCL 460.6h(6).

During the same proceeding the Commission "shall evaluate the decisions underlying the 5-year forecast." MCL 460.6h(7). In performing that evaluation, the Commission is authorized to indicate that cost items in the forecast are "unlikely" to be recoverable from "customers in rates, rate schedules, or gas cost recovery factors established in the future." *Id*.

Consistent with the foregoing, the Company filed an Application and supporting material proposing a Gas Cost Recovery Plan for the period between April 1, 2011, and March 31, 2012 (Plan), and a 5-year forecast for the period between April of 2011 and May of 2016. [2] In regards to the former, the Company submitted forecasted load statistics for the period between April 2011 and March 2016, along with GCR sales forecasts for the same time-frame. Exhibits A-3. In addition, the Company provided the projected gas source supply and costs they intend to utilize for the next 5 years. Exhibit A-7. To reduce costs for the 2012-2013 GCR Plan period, the Company intends to modify its hedging program to the point it obtains 20% of its annual supply requirements, and 25% of its winter purchase requirements through hedges. 5 TR 451. Mr. Marozas testified Company will employ "a mechanistic approach involving the execution of a predetermined quantity of hedges, according to a predetermined timeline ("time-driven"). The objective of this approach is to take much of the subjectivity out of when to hedge, allowing for a price averaging component to the quantity under this time-

[2] The Application was filed on December 29, 2010, which satisfies the requirement that it be submitted to the Commission "not less than 3 months before the beginning of the 12-month period covered by the plan." MCL 460.6h(3).

driven approach." 5 TR 452. The hedging will entail purchasing from pipelines, exchanges, under futures or options contracts, or over-the-counter. 5 TR 453. Had this hedging strategy been in place between 1994 and 2010, Mr. Marozas testified it would have reduced the price volatility the Company experienced during this period. 5 TR 457. While the reasonableness and prudence of the proposed modification to the Company's hedging program must be addressed when the 2012-2013 GCR Plan is submitted to the Commission, the 5-year forecast the Company submitted in this matter is fully compliant with MCL 460.6h(4) and (7).

In regards to the 2011-2012 GCR Plan, the Company projects a Total GCR Supply of 11,944,525 Mcf during the Plan period. Exhibit A-7. Mr. Huzzey testified that supply will come primarily through transportation under existing agreements effective through the Plan period, with the remainder from direct purchases and storage withdrawal. Exhibit A-9; 5 TR 383, 393. The purchases include 6.2 Bc at an average of $6.542 per Mcf during the Plan period, constituting 53% of the Company's projected sales, made under the Company's Fixed Price Purchase (FPP) guidelines. [3] 5 TR 392. In addition, the Company will continue to purchase term indexed priced gas, "i.e. supplies longer than one month…", and first of month base-load supplies. 5 TR 391. Daily purchases will be made when "cold weather conditions dictate the need for daily supplies needed to cover system loads greater than normal or in situations where operational concerns, for example maintaining adequate pressure levels or adequate inventory, dictate the need for additional supplies at specific [Company] locations." 5 TR 391-392.

[3] The guidelines were established by the Commission in a August 12, 2008 Order Approving Settlement Agreement in Case No. U-15450.

In regards to future costs of gas, Mr. Huzzey testified the Company uses the NYMEX prices because it is "a reasonable proxy for price expectations in the future based on known conditions." 5 TR 397-398. Accordingly, the Plan utilizes a six-step process to project its costs, which entails:

1. Obtain the average NYMEX prices for the twelve months beginning April 2011 (Exhibit A-6 (KEH-1), page 1) using the closing prices for December 1st, 2nd, 3rd, 6th and 7th;
2. Determine, based on historical data, projected quoted basis differentials from the NYMEX to be applied for the various supply basins from which MGUC will purchase gas (Exhibit A-6 (KEH-1), page 17);
3. Combine 1 and 2 above to project the "into the pipe or city gate" price for gas for each supply basin for each month in 2011/2012 (Exhibit A-6 (KEH-1), page 1) except for the fixed price supply purchases that have a known price, and in those instances the fixed price will be applied;
4. Obtain historical BTU factors for each of the pipelines that serve MGUC (Exhibit A-6 (KEH-1), page 18);
5. Project the commodity cost of transportation and fuel on each pipeline which delivers the gas from the respective supply basins; and
6. Combine the "into the pipe" gas cost with the commodity transportation, fuel, and BTU factors to obtain a delivered city gate price.

5 TR 394-395.

Under this methodology, to obtain the projected Total GCR Supply of 11,944,525 Mcf for the Plan period will cost $84,658,401. Exhibit A-7, p 2. While $62,139,171 of that amount is for supply, it also includes $14,239,325 for Pipeline Demand/Supply Reservation Costs and $7,602,193 for Net (to)/From Storage. Id. The supply will be obtained under a series of contracts that will remain in effect during the Plan period. Exhibits A-7 and A-9; 5 TR 393.

The projected cost for supply was added to the 2010/2011 under-recovery and divided by the total calendar monthly sales to reach a proposed 2011/2012 Base GCR Factor of $7.0891 per Mcf, which has been applied since the Plan period commenced in

April 2011. Exhibits A-1, A-2, p 1, and S-2, p 3; 5 TR 168-169. If the proposed $0.8104 per Mcf Reservation Charge at issue in Case No. U-16513 is approved; the Base GCR factor would be reduced to $6.6938 per Mcf, with revenues received from GCC customers credited to GCR customers. Exhibit A-1, p 2.

The only issue concerning the GCR Plan is the AG's contention that the Company should be instructed to discuss and respond to changing circumstances when implementing the Plan. Mr. Coppola testified that if the Company were to do so, it "would likely minimize any large potential under-recovery or over-recovery at year-end." 5 TR 355. To that end, Mr. Coppola recommended the Company update its GCR forecast between October 2011 and February 2012. Id. As noted by Ms. Mead, it is unclear whether Mr. Coppola is suggesting regular review of the GCR forecast components, which Mr. Tyler testified is now done (5 TR 213-216), or some form of "formal" updates during the winter months, which presents problems. Ms. Mead testified the primary constraint in preparing formal updates is the fact it takes up to three weeks to gather and analyze the data, and then verify the results. 5 TR 500. Since the Company sets the monthly GCR factor by the 15th of the proceeding month, utilizing audited sales figures from 2 months earlier, the process suggested by Mr. Coppola would not achieve the results he suggests. 5 TR 501. Therefore, the AG's request to institute some manner of a formal process to respond to changing circumstances is rejected.

Except for the AG's contention, none of the other Parties raised any challenges to the Plan, except for the proper Reservation Charge and corresponding GCR factor. [4]

[4] The RRC waived its objection to storage operation component of the Plan. Reply Brief, p 1, Dckt. # 0110. In his testimony on behalf of Staff, Mr. Stosik did not identify any concerns with the Plan.

Therefore, the ultimate recommendation on the Plan under MCL 460.6h will be made after an analysis of the proposed Reservation Charge.

## III.

## CASE NO. U-16513: RESERVATION CHARGE

In this Application, the Company seeks to impose Reservation Charge applicable to both its GCR customers and GCC Customers. Exhibit S-1, p 3. Mr. Tyler testified to the genesis of the GCC program and the Company's operational functions:

> On December 18, 2001, [the Company] filed an application with the Commission seeking authority to implement a voluntary GCC program for customers within its service territory. The Commission issued its order granting approval of the program on February 25, 2002 in Case No. U-13232. The program granted customers the right to purchase their gas supplies from Alternative Gas Suppliers ("AGS") which are then delivered to the customers through [the Company's] distribution system. Customers are billed by [the Company] at the cost of gas rate that they have negotiated with their AGS.
>
> Under the terms of the program, the customers continue to pay [the Company] their monthly customer charge, a distribution charge, a monthly balancing fee, along with the gas cost charged by their AGS. [The Company] then remits payment of the gas cost charges to the AGS, on behalf of the customer, based upon the volumes that are delivered into the system. On a monthly basis [the Company] determines the anticipated load of the AGS's customers based upon historical consumption patterns. These volumes are then spread evenly throughout the month and the AGS is required to deliver these volumes on a daily basis, i.e. comprising their Daily Delivery Obligation ("DDO"); any deviations from the required DDO results in the assessment of a failure fee. Throughout the month however, customers may consume more or fewer volumes on a daily basis than their AGS is delivering into the system. In order to compensate for these differences and to balance its system, [the Company] moves volumes in and out of storage accordingly. To compensate the Company for performing this service a Balancing Fee is assessed to each customer on a volumetric basis.
>
> When the Company initially designed its GCC program, concerning pipeline capacity and related supply costs, the intent was to:

> “**designate and/or assign** sufficient upstream pipeline capacity to meet the peak day requirements for each of the AGS’s customers, less deliveries from storage and/or balancing services, during the winter period of November through March delivered to points determined by the Company, at the Company’s average cost. The Company shall **designate and/or assign** such capacity in a non-discriminatory manner. **Assignment** of capacity shall be reviewed by the Company on a monthly basis and shall be for a minimum period of thirty days. Capacity will follow the customer.” (Emphasis added.)

> Since implementation of [the Company’s] GCC program, the FERC revised its rules governing capacity assignment and the Company experienced numerous difficulties with allocating capacity on both its interstate pipelines, as well as the intrastate distribution company systems that connect to its service territory, i.e. Michigan Consolidated and Consumers Energy, making that aspect of the program no longer workable. As such, the Company eliminated its capacity assignment requirement in January 2009, as part of its rate case revisions in Case No. U-15549. This was approved by the Commission in its January 13, 2009 order.
> 5 TR 221-222

One of the Company’s obligations under the GCC program is to serve as Supplier of Last Resort (SOLR) for GCC customers, which means it must provide service if the AGS cannot, or the customer opts out of the program and returns as a GCR customer. 5 TR 222. To meet this obligation, the Company must secure and hold in reserve storage and supply, along with pipeline transportation capacity, which the Company used to assign to an AGS until revised federal regulations made this impractical. [5] Exhibit S-8, p 1. As a result, GCR customers have to pay for all of the Company’s capacity charges, even those incurred through its obligation to serve as a SOLR. In general, a Reservation Charge will rectify the problem of GCR customers paying for

[5] To guarantee delivery during cold weather/peak days, the Company purchases firm transportation capacity, as opposed to less expensive interruptible or released capacity. 5 TR 410.

services that should be borne by GCC customers, and remove the competitive disadvantage the Company is faced with the AGS. [6]

In calculating its proposed Reservation Charge, the Company seeks to recover the costs associated with its SOLR obligations. Specifically, inter-related supply balancing and back-up functions Mr. Tyler testified consisted of:

> Actual consumption can vary dramatically with usage patterns by individual customers and also with the weather. [The Company's] service territory does not have real-time monitoring at the customer level. [The Company] uses system-wide monitoring data to make real-time adjustments to keep the system in balance. This includes moving excess supply into storage, withdrawing supply from storage to make up deficiencies, and acquiring and arranging for the delivery of additional supply when necessary. This service becomes especially important for GCC customers during colder than normal weather conditions. The AGS is only responsible for delivering its Daily Delivery Obligation ("DDO") to the Company's Point of Receipt. During colder than normal conditions, the Company uses its real-time, system-wide data, in tandem with the Company's supply, storage (including No Notice Service) and transportation capacity arrangements, to ensure that critical natural gas service is not interrupted for any GCR or GCC customer.
>
> Because the Company only knows the GCC customers' actual usage when the monthly bills are prepared, the Company will make up any intra-month and intra-day deficiencies in supply using its own resources to ensure that service is not interrupted. To adjust for inter-month imbalances, the Company will adjust subsequent month's DDOs. DDO's will be either increased or decreased to correct for inter-month balancing.
>
> All of these functions are a necessary part of [the Company's] GCC program, which relies upon regular deliveries of the same amount of supply by an AGS each day of the month. GCC customers do not consume the same amount of gas each day, and as I will explain in more detail later, [the Company] cannot track each GCC customer's usage on anything more frequent than a monthly basis nor curtail a GCC customer's use for exceeding the supply delivered by the AGS. Without the SOLR service, [the Company's] system could quickly become unbalanced and both GCC and GCR customers would suffer.
>
> 5 TR 187-188.

[6] Mr. Coppola noted a rapid increase in GCC program participation since 2007 that is driven by a significant increase in the GCR factor, which includes fixed costs for backup service to GCC customers. 5 TR 334-337.

Currently, the Company is authorized to impose a Balancing Charge of $0.42 per Mcf, which it contends does not cover the $0.4473 per Mcf costs of assets involved in providing balancing services during 2011-2012. Exhibit S-2, p 11. However, as a SOLR, the Company must also provide 215,320 Mcf to meet Peak Day sales requirements for GCR and GCC customers. 5 TR 386. To meet that demand, the Company must secure storage, supply, and pipeline transportation capacity to its city gate. [7] Mr. Huzzey testified those services constitute:

- ANR Enhanced Transportation Service ("ETS") – Firm transportation capacity on the ANR pipeline with daily and intra-day nomination rights. This service can be used to transport supply to each of the twelve sub areas, in quantities up to the contractual limits.

- ANR No Notice Service ("NNS") – A daily right to take from the ANR Pipeline in excess or less than supply nominations up to the contracted no-notice entitlement level. This service can be used for short term supply back-up and balancing purposes.

- ANR Firm Storage Service ("FSS") - Firm storage capacity within ANR's storage fields with daily and intra-day nomination rights. This service can be used for seasonal supply balancing, and also short term back-up and balancing purposes, due to the intra-day nomination rights. This service is also a required component of the ANR No Notice Service.

- ANR Enhanced Transportation Service ("ETS") – Firm transportation capacity between the MGU storage fields and the ANR FSS with daily and intra-day nomination rights. This service can be used for seasonal supply balancing, and also short term back-up and balancing purposes, due to the intra-day nomination rights.

- PEPL Enhanced Firm Transportation ("FT") - Firm transportation on the PEPL pipeline with daily and intra-day nomination rights. The PEPL pipeline serves and connects the Coldwater and Monroe service areas.

[7] The AGS' comprising the MGCCA's membership purchases it supply at the Company's citygate. 5 TR 200.

- MichCon Washington 10 Storage Service – The Washington 10 storage field was used for back-up and balancing purposes for the Grand Haven sub-area. Released for 2011-12; expires 4/2012.

- MichCon Transport FT – transportation capacity on MichCon pipelines between the Washington 10 Storage filed and the MGUC Grand Haven service area. This service was used to transport supply to and from the Washington 10 storage field. Released for 2011-12; expires 4/2012.

5 TR 407.

The costs of these services, which were approved in earlier GCR Plan cases, are $14,239,325 for the period between April 2011 and March 2012. Exhibit A-7, p 6.

Mr. Tyler testified that the $0.8014 per Mcf Reservation Charge the Company seeks to impose on GCR and GCC customers in 2011-2012 was established by dividing the Net Demand/Supply Reservation costs ($14,239,325) by the Total Sales and GCC volumes (17,767,280 Mcf). 5 TR 224; Exhibit A-21. The sales forecast component of the equation is the 30-year Normal approved in the Company's most recent general rate case, No. U-15990. Mr. Tyler testified utilizing that sales forecast "will tend to decrease the Reservation Charge on a volumetric basis and make it very unlikely that GCC customers will pay more than their fair share." 5 TR 195. Having said that, Mr. Tyler indicated the Company would true-up the Reservation Charge in its GCR reconciliation proceedings if the Commission so ordered. *Id*. Finally, the Company proposes to implement the Reservation Charge on a Mcf basis, and adjust it annually to reflect capacity costs. 5 TR 224. The Reservation Charge would replace the Balancing Fee the Company currently collects from GCC customers. Exhibit S-1, p 3.

None of the Parties challenge the general proposition that the imposition of a Reservation Charge on GCC and GCR customers is appropriate.

See 5 TR 281 (Hollewa), 333 (Coppola), 539 (Levitt), 6 TR 636 (Stosik). Rather, certain of the Parties argue the Reservation Charge of $0.8014 per Mcf is excessive. Prior to determining the proper Reservation Charge, it is necessary to address two issues. The first is the MGCCA general contention that it cannot adequately respond to the Company's proposal for a $0.8014 per Mcf Reservation Charge for GRC and GCC customers because of the lack of "data/information and the changing elements of the case." MGCCA Initial Brief, p 4, Dckt. # 105. However, as the Company notes, any confusion stems from the MGCCA's position that supply assets are discrete for GCR and GCC customers, which would allow for assigning costs per customer group. Quite simply, the MGCCA's position is not supported by the evidence on this record. As Mr. Tyler testified, the Company's "service territory does not have real-time monitoring at the customer level." 5 TR 187. Rather, the Company "uses system-wide monitoring data to make real-time adjustments to keep the system in balance. This includes moving excess supply into storage, withdrawing supply from storage to make up deficiencies, and acquiring and arranging for the delivery of additional supply when necessary." *Id*. The Company's Application proposing a Reservation Charge sets forth a detailed proposal to remedy a situation even the MGCCA agrees is occurring: GCR customers are subsidizing GCC customers. While the MGCCA may not agree with the amount of the Reservation Charge sought, its general contention that the Company's proofs are somehow incomplete, or that it is advancing two inconsistent versions of its case, cannot be accepted.

The second argument the MGCCA advances goes to capacity release credits, which Ms. Levitt contends should be factored in a monthly adjustment of the Reservation

Charge, or included in the Company's annual GCR reconciliation. 5 TR 538. In support, Ms. Levitt points to a 2001 Staff Report, adopted by the Commission in Case No. U-12550, that states a Capacity Demand Charge should be adjusted monthly based on revenues. 5 TR 559. Ms. Levitt does not provide a methodology that would allow for such an adjustment.

The Company contends a monthly adjustment is neither practical nor authorized under the statute. In regards to the former, the Company relies on the testimony of Mr. Tyler:

> Such a recommendation is not workable. The Reservation Charge that the Company is proposing is premised upon the annual throughput of both sales and GCC customers. Customer consumption varies on a month to month basis and is not level throughout the period; winter volumes typically exceed non-winter volumes by more than two to one. It is hard to think of a mechanism that would equitably adjust for this disparity on a monthly basis.
> 5 TR 211-212; See also 5 TR 248-249.

Based on this evidence, the MGCCA's request for a monthly adjustment of the Reservation Charge cannot be granted because a mechanism to ascertain the appropriate credit is not possible. Having said that, and as discussed below, the revenues would be attributable to both GCR and GCC customers during the reconciliation process.

As for the Company's legal argument, it notes it is seeking the Reservation Charge under Act 3, which, unlike Act 304, does not provide for the adjustment of natural gas rates without prior Commission approval. See MCL 460.6a(1). However, this provision would be satisfied assuming the Commission approved a monthly adjustment in this case. Further, the Commission could authorize a monthly adjustment under its "complete power and jurisdiction to regulate all public utilities in the state…."

MCL 460.4(1). Therefore, the Company's legal argument concerning the monthly adjustment of the Reservation Charge is rejected.

1. <u>The Reservation Charge</u>

The inquiry now turns to whether the $0.8014 per Mcf Reservation Charge the Company seeks in its Application is appropriate. The RRC agrees that the proposed Reservation Charge amount should be approved. 5 TR 281. The three other Parties contend that amount is excessive, and propose their own Reservation Charge. On behalf of the MGCCA, Ms. Levitt contends the Reservation Charge should be $0.3807 per Mcf. 5 TR 539. This amount is the sum of a Balancing Charge and SOLR Charge Ms. Levitt contends the Company actually incurs on behalf of GCC customers. In regards to the Balancing Charge, Ms. Levitt testified the cost of leased storage that is used by GCC customers is $934,487, as opposed to the $7,946,615 she contends the Company expends on pipeline demand, supply, and reservation costs. 5 TR 525-526; Exhibit MGCCA 2. Dividing that amount by total sales and GCC Volumes, Ms. Levitt contends the Balancing Charge should be $0.0526 per Mcf. Ms. Levitt calculated a SOLR Charge by again including only the cost of services she contends support GCC customers, and removing costs associated with system balancing. 5 TR 529. To that end, she started with fixed costs of $6,292,710, from which she subtracted $2,500,000 that she contends is for the exclusive benefit of GCR customers, to arrive at SOLR costs of $3,792,710. Exhibit MGCCA-4. Taking those costs and dividing it by a total volume of 11,567,280 Mcf, which excludes 6.5 Bcf of GCR supply, she arrived at a SOLR Charge of $0.3279 per Mcf. 5 TR 519; Exhibit MGCCA-4. Combining the Balancing

Charge and SOLR Charge establishes the $0.3279 Reservation Charge the MGCCA is advancing. 5 TR 539.

Through the testimony of Mr. Stosik, Staff contends the Reservation Charge should be $0.6844 per Mcf. 6 TR 637. Mr. Stosik reached this figure by removing the $2,079,999 for the Washington 10 storage costs from the $14,239,325 total Net Demand/Supply Reservation costs because the service will not be used this year or in the future. Id. Contrary to Ms. Levitt's contention, Staff does not recommend removal of $252,200 transportation costs associated with Washington 10 storage, or approximately $2,500,000 for transportation costs associated with 6.2 Bcf of supply. On behalf of the Attorney General, Mr. Coppola testified a $0.7705 per Mcf Reservation Charge is appropriate. 5 TR 341. This amount reflects removing from the calculation $549,000 in fees the Company will receive for releasing the Washington 10 storage capacity and a related transportation contract to a third-party. Id.

The RRC asserts that storage and transportation costs should not be borne exclusively by GCR customers because they are equally necessary for GCC customers. 5 TR 278. In fact, Mr. Hollewa notes that GCR customers have been effectively subsidizing the GCC program because of the Company's service requirements to GCC, particularly the SOLR status. 5 TR 275-276. Mr. Hollewa also provided a detailed response to Ms. Levitt's testimony regarding the Company's storage and balancing operations, along with its obligations as SOLR, and effectively rebutted her testimony concerning the proper Reservation Charge:

> However, from a cost standpoint relating to the Reservation Charge associated with SOLR, I cannot see the point of Ms. Levitt's testimony on this subject. Second, the Reservation Charge is nothing more than a volumetric distribution of the costs necessary to provide safe, reliable

> service for the system and simply represents the costs associated with satisfying the SOLR responsibility. MGUC has not and does not purchase incremental supply delivery assets for GCC customers. MGUC has an existing supply portfolio as detailed above which is required to meet Design Day and Design CTN weather. Third, if and when any AGS acquires Firm Transportation and Firm Storage Service necessary to meet Design Day and Design CTN weather, then Ms. Levitt's testimony on [5 TR 527-537] would have credibility. Anyone whose primary asset is a telephone cannot provide safe, reliable service under all possible conditions.
> 5 TR 298 [8]

Mr. Coppola also opined that GCR customers have been effectively subsidizing GCC customers since 2007, and the amount of that subsidy would increase dramatically in the next 2 years if the Reservation Charge is not imposed. 5 TR 338. Similar to Mr. Hollewa, he noted the deficiencies in Ms. Levitt's testimony and proposed Reservation Charge:

> Ms. Levitt separates the Balancing costs from the SOLR costs, and in calculating the Balancing Charge she takes a very narrow and unrealistic approach. She only includes the cost for ANR No-Notice Service. Ms. Levitt fails to acknowledge two important realities regarding [the Company's] obligations to provide balancing services to GCC customers. First, [the Company's] service areas are not totally integrated, and gas supplies cannot move freely from the market areas in the western part of Michigan to those in the south and southeast areas of the State. Therefore, the Company needs to call on multiple pipeline suppliers and storage assets that are connected with and serve those specific market areas. Second, both transportation and storage assets work in tandem to provide balancing services, particularly during peak demand days when gas supplies received from Alternative Gas Suppliers (AGSs) may not be sufficient to meet GCC customer demand. Large fluctuations between forecasted and actual weather may cause AGSs to deliver either too much or not enough supply. The deficiency or excess supply needs to come from or go somewhere and it is usually comes from or goes to storage. In other words, a conclusion that pipeline transportation and gas storage costs should not be included in costs incurred to provide balancing services to GCC customers is factually incorrect.

---

[8] A portion of Ms. Levitt's testimony cited by Mr. Hollewa, 5 TR 534-537, was the subject of a Motion to Strike that was granted at the commencement of the cross-examination on July 18, 2011. 5 TR 153-154

> The costs of all services reasonably and prudently incurred by [the Company] to be able to perform the duty imposed by the MPSC upon the Company to provide balancing services for GCC customers should be allocated to those customers.
> 5 TR 366-367

Consistent with the foregoing, the MGCCA's proposed Reservation Charge of $0.3807 per Mcf cannot be sustained. The evidence on this record clearly establishes that Ms. Levitt failed to consider the fact that the Company's system cannot be separated into discrete assets serving either GCR or GCC customers. Similarly, Ms. Levitt failed to consider the Company's obligations as a SOLR, particularly as it pertains to supply balancing and back-up services, along with the inter-relation of these services. Accordingly, the MGCCA's proposed Reservation Charge would not alleviate the problem of GCR customers paying for services that provide proportional benefits to GCC customers. Rather, the MGCCA's proposed Reservation Charge would continue to result in GCR customers subsidizing GCC customers.

This leaves the issue of what, if any, of the Washington 10 storage costs should be removed from the Reservation Charge. As noted, Staff recommends the entire amount, $2,079,000, should be removed from the calculation because the Company will not use the service this year. Mr. Hollewa agrees with Staff's recommendation for removal of the costs in principle, but testified it should not be adopted since the Reservation Charge will only be in effect for a portion of the 2011-2012 GCR year. 5 TR 299. Conversely, Mr. Coppola testified the Company will only realize $549,000 from the release of Washington 10 storage capacity, and not the $2,079,999 Mr. Stosik used in his Reservation Charge calculation. 5 TR 364-365. Mr. Coppola testified that

GCR and GCC customers benefited from the Washington 10 storage up to the release of the asset, and thus both should pay for the remaining costs. 5 TR 364-365.

Mr. Huzzey testified the Company will not use the Washington 10 storage during 2011-2012, but rather seek storage on the secondary market. 5 TR 390. However, Mr. Tyler noted that contract, along with the MichCon transportation contract, were executed in May of 2007, and the costs have subsequently been borne exclusively by GCR customers. 5 TR 193. Mr. Tyler opined it would be inappropriate to allow GCC customers to share in the credits of the release of that capacity during the final year of the contract:

> The Company has released its Washington 10 storage capacity and related MichCon transportation and will receive approximately $549,000 in release revenues. Unfortunately, the cost of the storage capacity and related transportation exceeds $2.3 million per year. The contracts remain in effect through April 30, 2012, which means that [the Company] will still bear in excess of $1.78 million of reservation charges during the Plan period. It must be remembered that [the Company] entered into these contracts in order to meet the demands of its sales customers at the time. The majority of the GCC customers were sales customers back in May of 2007 when these contracts were entered into. To exclude these costs entirely from the Reservation charge calculation, allows the GCC customers to escape responsibility for costs that were incurred on their behalf and for their benefit. Once again, it forces the GCR Customers to subsidize the Choice program, which is not appropriate. GCC customers should continue to bear their portion of the costs for these contracts until they expire in April 2012.
> 5 TR 194

The Company intends to credit the revenue received from the release of capacity, including for Washington 10 and MichCon FT transportation, to GCR customers through the reconciliation process. 5 TR 195. As a result, the Company objects to the removal of storage and transportation costs, which would allow GCC customers to share in that revenue, from the proposed Reservation Charge.

The Company's contention that the entire cost of the Washington 10 storage should be included in the Reservation Charge calculation is valid. The Company entered into the contract in 2007 in order to ensure sufficient service to both GCR and GCC customers, and the agreement was approved by the Commission. However, this record indicates GCC customers have not paid their proportionate share of the costs of that service. Since GCC customers have benefited from the service, they should be responsible for the cost of that service. Therefore, the $2,079,999 cost for Washington 10 storage is properly included in the Reservation Charge calculation. Along the same lines, the $549,000 the Company received from a third party for that asset should accrue to the GCR customers that paid for the service since 2007. To adopt Mr. Coppola's recommendation to remove that amount from the Reservation Charge calculation would bestow a benefit on GCC customers for which they are not entitled, and deprive GCR customers from recouping a portion of that they paid for the service. Accordingly, the Reservation Charges proposed by Staff and the AG would not ensure that GCR and GCC customers pay, on a proportional basis, for the cost of service.

Based on this record, the $0.8014 per Mcf Reservation Charge the Company proposes for both GCR and GCC customers is the simplest and fairest method to allocate the cost of providing reliable service to each customer class. Based on this Reservation Charge, the Company's GCR factor should be set at $6.6938 per Mcf. Exhibit A-1, p 2.

2. <u>Separate Line Item on GCR and GCC bills indicating the Reservation Charge.</u>

The Company's Application did not propose to include the Reservation Charge as a separate line item on GCR and GCC customer bills, although during this proceeding it indicated it does not object to such a requirement. 5 TR 212; Exhibit S-1, p 2. Staff recommends this step consistent with the Company's tariff sheet D-2.00. Exhibit A-1, p 2. The MGCCA and the AG concur with Staff's recommendations.

Staff notes a separate line item on a bill provides transparency for each customer class, and enables easy comparison of the respective cost of both GCR and GCC service. Such transparency is consistent with the Commission's intent in instituting the Gas Choice Program. Accordingly, it is recommended the Commission require the Company state the Reservation Charge on a separate line on each customer bill.

3. Future Credits to GCC Customers for Capacity Release, Excess Storage Sales and/or Overrecoveries.

On this issue Mr. Stosik testified:

> On a going forward basis beginning with the next GCR plan case, Staff recommends that [the Company] be required to submit a proposal that addresses the concerns identified below.
>
> (a) All revenues received by [the Company] for the release of excess capacity are credited to the GCR factor only and not credited to GCC customers.
>
> (b) All revenues received by [the Company] for the release of excess storage are credited to the GCR factor only and not credited to GCC customers.
>
> (c) Over- or under-recovery of revenues resulting from the [Reservation Charge] are credited to the GCR factor and are not applied to the specific calculation of future Reservation Charges to impact GCC customers.
>
> In short, the proposed [Reservation Charge] requires that both GCR and GCC customers share in the responsibility for the full recovery of the underlying costs. However, residual benefits or detriments related to those costs are presently realized or borne by GCR customers only and do not accrue to GCC customers. Staff believes this to be a reasonable recommendation given [the Company's] stated objectives of eliminating the inequities of the current arrangement and creating the ability to fairly compete with the AGS's.
>
> 6 TR 639 (footnotes omitted).

In response to this proposal, Mr. Tyler testified the Company is willing to perform a reconciliation and true-up of applicable revenues, which Staff acknowledges is a reasonable alternative. 5 TR 196; Staff's Response Brief, p 12, Dckt. # 0108. Obviously, either process will ensure each customer class pay or receive a proportional share of cost of service or revenue. Having said that, Mr. Stosik's recommendation would allow the Company to develop a plan, provide interested parties with the opportunity to respond to the plan, and allow the Commission to review and decide the issue. Exhibit S-5. Therefore, it is recommended the Commission's Order in this case direct the Company to file a proposal in its next GCR Application concerning the handling of revenues/credits from the release of storage and sales, and overrecoveries.

4. <u>A Commission Initiated Proceeding to Review the Gas Choice Program</u>

The MGCCA notes that it has been 10 years since this Program has undergone a comprehensive review, which resulted in a Staff Report on Mid-sized LDC Permanent Gas Customer Choice Programs. Exhibit S-2, pp 13-40. As a result, it suggests the Commission convene another collaborative review in order to gather technical information on the operational aspects of the Gas Choice Program. The RRC counsels against a collaborative proceeding unless and until the Commission is prepared to devote the necessary resources necessary for it to succeed. The AG questions the legal basis for such a proceeding, and argues, along with the Company, no evidentiary basis exists on this record to initiate one. It will be left to the Commission to determine, in its discretion, whether such a proceeding should be convened.

**IV.**

**PROPOSED DECISION**

Based on the foregoing, it is recommended that the Commission approve the Company's request for a Reservation Charge of $0.8014 per Mcf for both GCR and GCC customers, and indicated as a single line item on their bills. It is further recommended that the Commission approve the Company's GCR Plan, including its GCR Factor of $6.6938, and 5-year Forecast. Finally, it is recommended the Commission direct the Company to file a proposal in its next GCR Application concerning how it proposes to credit GCR and GCC customers for revenues from the release of storage and sales, and overrecoveries.

MICHIGAN ADMINISTRATIVE HEARING SYSTEM
For the Michigan Public Service Commission

Dennis Mack

Digitally signed by Dennis Mack
DN: cn=Dennis Mack, c=US, email=mackd2@michigan.gov
Date: 2011.11.22 14:59:24 -05'00'

Dennis W. Mack
Administrative Law Judge

ISSUED & SERVED: November 22, 2011